



# University of Hawaii at Manoa

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## HB 1573 RELATING TO ENVIRONMENTAL QUALITY

Statement for House Committees on  
Energy, Ecology and Environmental Protection  
Water, Land Use and Hawaiian Affairs  
Public Hearing, 28 February 1983

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SB 1279 would amend HRS chapters 341 and 343 so as to make a substantial change in the administration of the State Environmental Impact Statement (EIS) system as well as some less substantial changes in environmental quality management. This statement is based on the experience of long-continued and substantial engagement by the Environmental Center in reviews of the EIS system for the Office of Environmental Quality Control and the Environmental Quality Commission and in reviews of most EISs, and on our long-continued experience of cooperation with the Office of Environmental Quality Control, the Environmental Quality Commission, and the Environmental Council. The statement does not, however, reflect an institutional position of the University.

### Transfer of EIS system authority

The major change proposed in HB 1573 would be to abolish the Environmental Quality Commission, which was established to administer the State EIS system, and transfer its duties to the combination of the Office of Environmental Control and the Environmental Council. The change would result in reducing from three to two the number of state bodies whose environmental duties are reflected in their title. The change would greatly reduce public confusion as to the distinctions between the functions of the bodies.

The Commission has both routine administrative functions and a combination of rule-making and appeal functions. Its routine administrative functions would, under SB 1279, be transferred to the Office which has cooperated with the Commission in these functions in the past by lending staff support. The rule-making and appeal functions would be transferred to the Council. The members of the Council, like those of the Commission, are appointed from the public, and the exercise of these functions by the Council is, therefore, appropriate. With the transfer, the Council would be converted from an essentially advisory

body to one with a combination of advisory functions and actual authority. Its duties would be increased. However, because EIS-system regulations have already been promulgated, it is only their revision from time to time with which the Council need be concerned, and their revision and the exercise of the appeal function are rarely exercised. Hence the Council should be able to perform the increased duties.

#### Structure of the Council

The Council would continue to have 15 members, 14 appointed from the public and, ex officio, the Director of the Office. SB 1279 would provide, however, that the Chairperson would be a member elected by the Council rather than the Director of the Office. This will reduce the possibility of undue influence over the Council by the Director.

#### Composition of the Council

HB 1279 would provide that the members of the Council be appointed to represent a combination of most of the constituencies represented in the present Council and the Commission. Representation of a breadth of public competence and interest in the Council is essential. However, there are some possible problems with the detailed requirements in the bill.

As indicated in Table 1, 13 constituencies are named. These are grouped so that the provision appears to dictate representation from no more than 4 combinations of these constituencies, but more than one representative would be required from each combination. Because there is some overlap, for example between the combination of disciplines and the group of colleges and universities, it might be that the qualifications are fixed for no more than 6 of the 14 public representatives on the Council.

However, there are constituencies whose representation would be desirable but not required by the provisions of the bill, for example: ethics, philosophy, and the mass media (represented in the present Council); planning (represented in the present Commission), and art (to represent aesthetic interests), public health, museums (such as the Bishop Museum), agriculture and the tourist industry.

We suggest the desirability of replacing the Council membership requirements of the bill by something like the following:

Members shall be appointed to assure broad representation from environmentally pertinent disciplines and professions such as the natural and social sciences, the humanities, architecture, engineering, public health and planning; from educational and research institutions with environmental competence; and from such businesses as agriculture, real estate, the visitor industry, and the mass media.

#### Placement of Office

Unlike some of the bills that were introduced in the 1982 legislative session to accomplish the purposes of SB 1279, the Office would remain, for administrative purposes, in the Department of Health (DOH), and by implication the Council would be attached to the DOH in the same manner. We have mixed opinions concerning the wisdom of retaining the Office in the DOH. However, if it can be assured that, with the present attachment for administrative purposes only, the Office is not subject to the policies of the DOH, if the Office has a strong Director, and if the strength of its staff is restored, the Office can continue to exercise appropriately the inter-departmental coordinating responsibilities placed on it under HRS 341 and can undertake appropriately the EIS responsibilities that would be placed on it in the proposed revision of HRS 343.

Table 1. Constituencies to be represented in future Council

1	Architecture	}	1 Disciplines
2	Engineering		
3	Planning		
4	Natural sci.		
5	Physical sci.		
6	Social sci.		
7	Construction	}	2 Business & industry
8	Real estate		
9	Labor		
10	Public & Private sch.	}	3 Education
11	Colleges & Universities		
12	Community	}	4 Community & environmental groups
13	Environmental grps.		

Constituencies, now represented in Council, not specified in future Council

Mass media  
Technologies other than architecture and engineering  
Ethics  
Philosophy

Constituencies, now represented in Commission, not specified in future Council

Management (other than construction and real estate)  
Planning